Dept. 1
Civil Law and Motion Tentative Rulings for Friday, May 9, 2025, at 8:30 a.m.

If you wish to appear for oral argument, you must so notify the Court at (209) 533-6633 and (209) 588-2316, and all other parties by 4:00 p.m. on the court day preceding the hearing, consistent with CRC 3.1308. The tentative ruling will become the ruling of the Court if notice for oral argument has not been provided.

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1. **CV66070** **Cathrein v. Johnson-Gonzales**
   Hearing on: Motion to Appoint GAL and Counsel
   Moving Party: Prospective Intervenors
   Tentative Ruling: HEARING REQUIRED

This is a quiet title action. There is a related action for a Civil Harassment Restraining Order (CV65515) which was fully resolved on 05/01/24 by way of a stipulated personal conduct order in Department 5. There was another related action stemming from a request for a domestic violence restraining order (FL18192) which was dismissed for lack of prosecution.

The salient facts intertwined within these cases are these: Stefan (67) and Cheryl (57) were reportedly in a relationship that varied between "romantic" and "business" – depending on the apparent needs of the day. Stefan owned two homes: 20479 Bay Meadows Drive, and 20489 Bay Meadows Drive. Stefan suffered a stroke in 2020. Shortly thereafter he executed a deed granting Cheryl a 50% interest in both properties. Cheryl took up residence in 20489, and for a short time had her son in 20479. According to Cheryl, the 50% deed was either a distribution of her joint venture equity, or a "gift" from Stefan.

Before the Court this day is a motion by non-party Robert Johnson to secure appointment as defendant's guardian ad litem. There is a related request for the appointment of counsel – as if this were a conservatorship case, which it is not.

Robert does have standing to request a GAL. "If the person lacking legal competence to make decisions is a party to an action or proceeding," a request for the appointment of a guardian ad litem may be made by "a relative or friend of the person lacking legal competence to make decisions, or of any other party to the action or proceeding, or by the court on its own motion." CCP §373(c). Robert is such a person, and therefore he has standing to make this request.

As for the merits of the request, a court may grant such an application "when it is deemed by the court to be expedient" so long as the applicant (1) belies any concerns regarding a conflict of interest, and (2) sets forth sufficient facts from which to make a prima facie showing that the party "lacks legal capacity." Here, the party subject to the appointment fully consents to the appointment, which reduces the evidentiary threshold for both elements.

As to the potential for a conflict, this Court is unable to determine from the application whether Robert is capable of performing the job of a GAL with the required neutrality. A guardian ad litem is not a party to the action. The guardian ad litem's function is merely to protect the rights of the party, explain the litigation, help bring about the resolution, and make stipulations/concessions in the person's best interests. The guardian ad litem's role is not to

practice the law, but instead to guide the litigation. See *A.F. v. Jeffrey F.* (2022) 79 Cal.App.5th 737, 747. While a son is probably the best person to look out for, and protect, a parent, there is always the risk that an adult child might be focused on a potential inheritance rather than what is best for a parent. Although he denies knowledge of any possible conflict of interest in his application, Robert will need to address this.

As for the capacity concern, this is a close call. "The test for incompetence in this context is whether the party has the capacity to understand the nature or consequences of the proceeding, and is able to assist counsel in preparation of the case." *In re Jessica G.* (2001) 93 Cal.App.4th 1180, 1186. Under California law, evidence of incompetence may be drawn from various sources, but the evidence relied upon must speak to the court's concern whether the person in question is able to meaningfully take part in the proceedings. *AT&T Mobility, LLC v. Yeager*, 143 F.Supp.3d 1042, 1050 (E.D. Cal. 2015). A broad range of evidence may inform the court's decision on competency including: a report of mental disability by a government agency, the representations of counsel, sworn declarations from persons who know him, diagnosis of mental illness, a review of medical records, as well as the person's age, illnesses, and general mental state. When the court determines that a pro se litigant is incompetent, a guardian ad litem should be appointed. *Davis v. Baines*, WL2258538 at *2 (E.D. Cal. 2024). The evidence provided shows that Cheryl is understandably stressed-out by litigation, and having a hard time focusing. However, the depth of her filings – and her overall litigation approach so far – belie any claim that she is unable to engage in battle. In fact, she is engaging quite well given that she does not have a lawyer. This brings up another concern, to wit: since Cheryl can represent herself, but Robert cannot represent Cheryl, appointment of a GAL will require Cheryl to hire a lawyer. Although Robert thinks Cheryl is entitled to a free lawyer on the county's dime, he is mistaken (see discussion below). So, with that, if Cheryl really wants a GAL, and Robert can convince this Court that Cheryl qualifies for one, this Court is open to granting that request.

Robert's request for appointment of counsel under Probate Code §1471(a) is denied. Pursuant thereto, a trial court shall appoint the public defender or private counsel for a party who appears to lack legal capacity is any proceeding to (1) establish/transfer/terminate a conservatorship, (2) remove a conservator, (3) declare/establish capacity, or (4) relocate a conservatee. An application for appointment of a GAL in a garden-variety civil dispute regarding real property is not one of those proceedings, and in fact is not anything found in Division 4 of the Probate Code. Cheryl will have to retain her own attorney, at her own expense, if Robert is appointed to serve as her guardian ad litem.

Finally, this Court notes that *Robert* recently filed a motion to disqualify this bench officer under CCP §170.3(c). The motion is not set for a hearing, and will be stricken, because only a "party" may file such a request and Robert is not a party.

2. CVL66112 Creditors Bureau USA v. Vidas
Hearing on: Motion to Set Aside Judgment
Moving Party: Defendant
Tentative Ruling: HEARING REQUEST

This is a collections case that proceeded by way of default, even though defendant technically made a general appearance on 12/16/2024 – prior to the date that default was entered. It does appear to this Court that the filings received from the defendant on 12/16/2024 should have been treated as an answer to the complaint and not something to be summarily dismissed as an imperfect responsive pleading. However, it is not clear that the answer presented any legal grounds for avoiding the contract that defendant signed. This Court is willing to hear from defendant but notes that setting aside the judgment and entry of default on a technical ground will only delay the inevitable without some proffer of a defense.

3. CV63591 Redick v. Sonora Police Department
Hearing on: Motion for Reconsideration and Petition to Deem Plaintiff and Vexatious Litigant
Moving Party: Misc
Tentative Ruling: See Below

This is a type of "malicious prosecution" case filed by an individual who was charged with, but never prosecuted for, shoplifting. The sordid details have been supplied in various prior written rulings, and are not necessary to repeat here except to note that the criminal complaint (CRF58586) languished for almost two years, only to be voluntarily dismissed by the DA when questions arose about ID'ing Mr. Redick on the supplied in-store video. Unsatisfied with just the voluntarily dismissal, Mr, Reddick filed civil lawsuits against Lowe's, the District Attorney, the jail, the County and the Sonora PD (see CV63539, CV63591, CV63592, and CV63593). Due to a remarkably unfortunate series of clerical mishaps back in 2021, Mr. Redick was able to secure defaults in those cases for a combined total of $107,733,000.00. When the local agencies learned what had occurred, it took very little for this Court and legal research to see (and correct) the miscarriage. Since that time, Mr. Redick has waged unrelenting warfare in a singular effort to regain a taste of those fraudulent defaults.

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Before the Court this day is plaintiff's motion for reconsideration, filed 04/03/2025. The notice of motion is somewhat ambiguous, which presents a challenge in terms of resolution. The notice of motion must state with precision the nature of the relief sought and the grounds therefore. CCP §1010; CRC 3.1110(a). In fact, it is a basic tenant of motion practice that the moving party define the issues for the information and attention of the adverse party and the court. *See Kinda v. Carpenter* (2016) 247 Cal.App.4th 1268, 1277. Here, it appears that plaintiff is asking this Court to reconsider a tentative ruling under CCP §473(d), and an unidentified list of prior rulings. First, tentative rulings are not binding, and therefore lack the finality needed for reconsideration. See Trujillo v. City of Los Angeles (2022) 84 Cal.App.5th 908, 919; *Silverado Modjeska Recreation & Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 300. Second, CCP §1008(a) requires that any motion for reconsideration be supported by an affidavit from the moving party setting forth "what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown." The motion is not properly presented as one for statutory reconsideration under CCP §1008 because the papers do not specify which order is being challenged, when it was made, and what no new facts or law support a new look. See *Hennigan v. White* (2011) 199 Cal.App.4th 395, 406.

Also before the Court this day is the Court's sua sponte motion to declare plaintiff a vexatious litigant. A vexatious litigant is someone who (1) repeatedly relitigates any issue of fact or law already decided involving the same defendant or (2) repeatedly engages in frivolous behavior in the litigation of one particular case. See CCP §391(b)(2)-(3). Here are the "main" unmeritorious papers that Mr. Redick has filed in these consolidated cases which are either repetitious of orders already issued or simply frivolous antics:

- Proof of Service on Sonora Police Department (02/18/2021). POS does not state in Para 4 that the service package included summons, complaint, or civil case cover sheet. POS does not state in Para 5 the name of the individual served, or the address where the service took place. Finally, plaintiff used POS-040, which is expressly <u>not</u> for service of a summons (as clearly stated on Page 3). See Minute Order dtd 08/23/21.
- Proof of Service on Tuolumne County Jail (02/18/2021) and Tuolumne County District Attorney Office (02/18/2021). POS does not state in Para 4 that the service package included summons, complaint, or civil case cover sheet. POS does not state in Para 5 the name of the individual served, or the address where the service took place. Finally, plaintiff used POS-040, which is expressly <u>not</u> for service of a summons (as clearly stated on Page 3). See Minute Order dtd 08/23/21.
- Request for Entry of Default against Sonora Police Department in the amount of $33,000,000.00 (04/07/2021). Despite the requirement to mail a copy to the defendant (CCP §587), Para 6 does not indicate service to the defendant at all.

- Request for Entry of Default against Tuolumne County Jail and the Tuolumne District Attorney Office in the amount of $33,000,000.00 (04/07/2021). Despite the requirement to mail a copy to the defendant (CCP §587), Para 6 does not indicate service to the defendant at all. In addition, this was filed after counsel for Tuolumne County already made a CCP §430.41 appearance, violating *Fasuyi*.
- Document title motion to strike defendant's answer to defendant's motion to set aside default and plaintiff's memorandum of points in support thereof (06/28/2021)
- Opposition to Defendant's motion to set aside entry of default, stating that agreement to set aside default was on condition that defendant agree to settle on plaintiff's terms and that plaintiff was "told" that serving Board of Supervisors was sufficient (04/20/2021);
- Petition for Writ of Certiorari to lift the stay imposed here while the case against Lowe's proceeds in federal court (12/28/2022);
- Motion to reinstate the defaults previously entered (but subsequently set aside) involving the defendants (10/21/2024);
- Appeal to the 5th Appellate District (F088816) regarding trial court's refusal to reinstate defaults. Order is not appealable.
- Ex parte application to stay proceedings to permit review by the California Supreme Court (02/10/2025), filed just two months after plaintiff filed a motion to lift the stay and resume litigation in the case (11/26/2024)
- Motion to strike trial court proceedings pending review of writ of supersedes for review before the California Supreme Court (02/10/2025);
- Emergency motion to compel, motion to dismiss, and notice of intent to appeal regarding trial court's alleged failure to specially-set plaintiff's ex parte application to stay the trial court proceedings (02/11/2025)
- Notice of writ of mandate, transfer request for stay of proceedings (02/13/2025);
- Petition for writ of mandate with the 5th Appellate District (F089344). Summarily dismissed same day it was filed.
- Cover sheet emergency petition for writ of mandate and motion to disqualify Judge Seibert (02/26/2025);
- Plaintiff's conditional objection to case management conference and notice of jurisdictional challenge (02/26/2025);
- Plaintiff's motion for summary judgment (filed 02/28/2025), set for hearing the same date it was filed, naming Judge Seibert as one of the defendants as well as the Judge assigned to decide the motion. There is no separate statement of undisputed fact. There is no memorandum of points and authorities.
- Petition for writ of mandate with the 5th Appellate District (F089475). Summarily dismissed one week after it was filed.
- Plaintiff's "Final Legal report and Settlement Demand" indicating that "the merits of this case have been conclusively resolved in favor of plaintiff [and that] the defendants

have been found liable for malicious prosecution" and that plaintiff demands $151.6 million in order to settle and avoid further lawsuits (extortion). Filed 03/04/2025. This "notice" is accompanied by a "motion" set for hearing this date (03/28/2025), and includes as new defendants Verizon and Google.

- "Emergency motion to immediately remove this case from the County of Tuolumne and Judge Kevin M. Seibert's Jurisdiction, stay proceedings, and reaffirm consolidation of cases; request for criminal investigation into the judicial misconduct and violations of due process to all parties and their attorneys of record" (03/10/2025).
- Motion for default judgment (03/11/2025);
- Motion to stay and postpone case management conference and all related proceedings (03/19/2025);
- Ex Parte Motion to Stay and Postpone the Case Management Conference (CMC) and All Related Proceedings; and for Entry of Default Judgment and Sanctions for Procedural Noncompliance (03/21/2025);
- Motion for order to Show Cause and Judicial Relief (03/25/2025);
- Emergency Motion for Issuance of Subpoena to Attorney Richard Meyer (03/27/2025);
- Plaintiff's Final Statement of Record (03/27/2025);
- Plaintiff's Motion for Reconsideration and Motion to vacate tentative Ruling (04/03/2025);
- Notice of Other Federal Proceedings and Request for Stay of trial Court Proceedings (4/25/2025);
- Plaintiff's Objection to Improper Filing; Motion to Strike Defendant's Unauthorized Response; Request for Relief Due to Violations of Due Process (04/29/2025);
- Plaintiff's Request for Stay and Objection to Personal Jurisdiction (04/30/2025).

In the above list, one can see that Plaintiff has repeatedly asked this Court to reinstate his bogus defaults at least four times, and has already asked both the Court of Appeals and the California Supreme Court to intervene (without success). Mr. Redick has also asked this Court on at least seven different occasions for a stay in the proceedings, hoping to drag these cases out indefinitely. Mr. Redick's behavior in these consolidated cases is quite patently designed to cause unnecessary delay, to run up the legal fees for this County to "punish" it for charging him with shoplifting, and to make a mockery of the judicial system by filing papers replete with repetitive and meritless claims. As noted by defense counsel in response to the pending motion for reconsideration (and assorted drivel on the horizon):

> "Whatever Plaintiff's 'motion' is, it is yet another litany of the vexatious pleadings Plaintiff has filed in this matter. As this Court has become well aware, Plaintiff has been on a campaign to obtain a default judgement against all defendants rather than have his matter heard on the merits. Despite the obvious deficiencies in the default Plaintiff

> improperly secured some four years ago, Plaintiff has filed endless pleadings with this Court since the stay has been lifted fanatically claiming purported procedural defects and other nonsensical claims of irregularities. None of Plaintiff s grievances have any merit. Each time he makes some request for relief, whether it be with this Court or the Court's of appeal, they are denied because they are meritless. However, each time, Plaintiff continues to attempt to litigate the same Issue. Whatever 'motion' before this Court Plaintiff has filed is just another example of Plaintiff s vexatious tendency. The motion must be denied."

As noted, plaintiff has filed scores of unmeritorious motions – which makes him a vexatious litigant. He has also engaged in tactics that are "totally and completely without merit or for the sole purpose of harassing an opposing party." See CCP §§ 128.5, 391(b)(3). Of course, this Court's impression that Mr. Redick is a vexatious litigant is not "deemed to be a determination of any issue in the litigation or of the merits thereof" (CCP §391.2), and if Mr. Redick could simply color in the lines of his malicious prosecution action this Court would certainly keep an open mind on the merits. Instead Mr. Redick only wants to chase defaults that he was never entitled to in the first instance, and which no court would ever condone a prove-up for. Assuming Plaintiff is deemed a vexatious litigant, it will be up to defense counsel to seek the necessary bond, if any.

4. **CV65320** **Taylor v. Larson Farms**
   Hearing on: Motion to Withdraw; Motion to Compel
   Moving Party: Misc
   Tentative Ruling: Grant; Grant

This is a premises liability "slip and fall" case commenced by way of complaint nearly two years ago. The underlying facts are not well-known to this Court, largely because little in the way of fact-development has taken place. The motions pending before the Court today more than adequately explain why that it.

First, there is a motion filed by counsel for plaintiff to withdraw from the case. An attorney may withdraw as counsel of record if the client breaches the agreement to pay fees, insists on pursuing invalid claims or an illegal course of conduct, or when other conduct by the client renders it unreasonably difficult for the attorney to do his job, including when there is a breakdown in the attorney-client relationship. See CRPC and *Estate of Falco v. Decker* (1987) 188 Cal.App.3d 1004, 1014. If the attorney does not have the client's consent, he or she must proceed by way of noticed motion consistent with CCP §§ 284, 1005, and CRC 3.1362. Assuming proper service and notice, relief turns on whether there are reasonable grounds for

granting the request, and if doing so will prejudice the client. Courts have a duty of inquiry regarding the grounds for the motion, and are not required to accept at face value vague, unsupported or uncertain representations as to reasons why an attorney wants out. Counsel has a corresponding duty to respond and to describe the general nature of the issue, within the confines of any privilege. The degree of detail is on a sliding scale against counsel's candor and trustworthiness. See *Flake v. Neumiller & Beardslee* (2017) 9 Cal.App.5th 223, 230; *Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1134-1136; *Aceves v. Superior Court* (1996) 51 Cal.App.4th 584, 592-593. An otherwise proper motion to withdraw may be denied when it is reasonably foreseeable that the client would suffer prejudice, such as when the unrepresented client would be unable to fairly respond to dispositive motions. See *Mossanen v. Monfared* (2000) 77 Cal.App.4th 1402, 1409.

Although counsel's original MC-052 was substantively insufficient to warrant the relief sought, plaintiff's subsequent filing on 05/01/2025 more than adequately connects the dots. There is clearly a breakdown in the attorney-client relationship warranting counsel's request to bail out. Although opposing counsel objects, claiming some amorphous prejudice to plaintiff – even assuming that defendant had standing to assert such a claim – there is no prejudice to plaintiff or anyone else under the circumstances. In fact, dealing with plaintiff directly, or her new counsel, might actually pay dividends here. The trial is now far enough out there to permit what amounts to a "reset" of any harm caused by the delays, so there is no prejudice shown with the request to withdraw. Moreover, this country abolished involuntary servitude quite some time ago. The motion is GRANTED, effective immediately. No formal signed order with POS will be required.

Next, there is the motion to compel plaintiff's deposition. She claims that she was entirely in the dark about these deposition dates because she and her attorney did not communicate. That does not appear to be accurate. From the looks of those emails, it appears that plaintiff had a number of issues attending a deposition, and requested to do so via Zoom. Although the remote technology rules do not give the deponent that option, this Court sees no reason why defense counsel would not agree to take plaintiff's deposition via Zoom just to get it over with and ready the case for trial. With no opposing counsel, this case should be relatively easy to prepare for trial. So, the motion to compel a deposition is, of course, GRANTED. Any issue regarding sanctions will be reserved for the final Cost Memo if there is to be one, but no sanctions will be awarded at this time. Plaintiff shall review her calendar and sit for a deposition in the coming 20 days.